

Session:

Towards new governance of trade: streamlining, regulatory harmonization and MRAs in PTAs

**Regulatory Harmonization in ASEAN:
The Case of the Food Sector**



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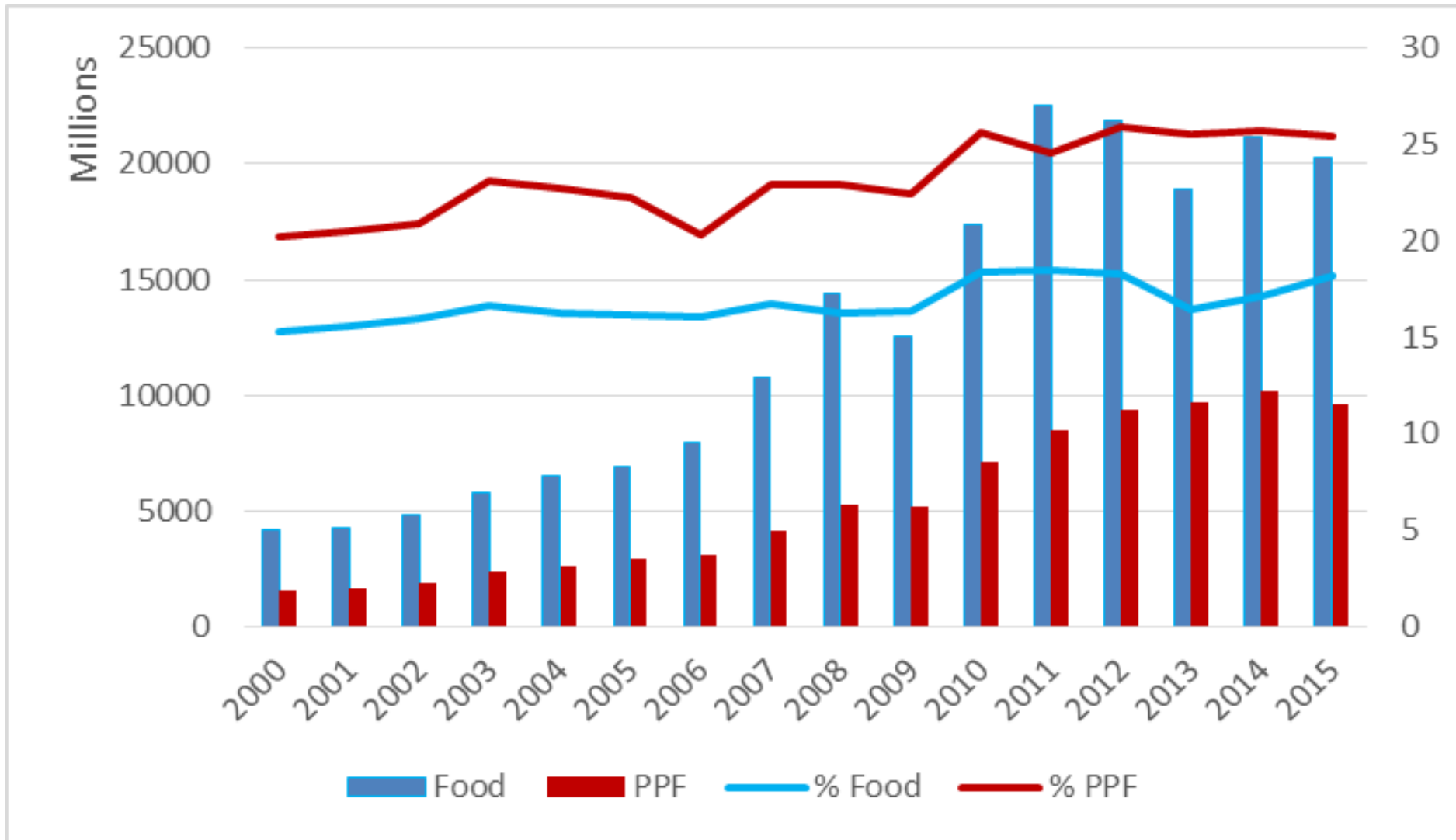
The Issue

- Regulatory heterogeneity is a challenge for harmonizing standards, and ultimately creating an integrated ASEAN single market. Regulatory convergence is important:
 - Reduce compliance costs for exporters (Turkson, 2015; Ferro *et al.*, 2015; Lei, *et al.*, 2015; Yuan and Beghin, 2012; Jongwanich, 2009; Chen *et al.*, 2008).
 - Ensure that standards cannot be used as discriminatory NTBs (Alemanno, 2015; Hooker, 1999); and
 - Increase trade flows (Shepherd, 2015; USAID, 2013; Winchester *et al.*, 2012; Frahan and Vancauteran, 2006; Wilson and Otsuki, 2003).
- Information shortcomings on the extent of the diversity of NTMs in ASEAN countries - existing databases lack complete information.
- A new database (UNCTAD-ERIA, 2016) to provide a comprehensive assessment of NTMs in ASEAN.
 - Details the diverse types of NTMs based on acts and regulations that prescribe the conditions for importing and exporting.

Non-Tariff Measures in ASEAN - The Food Sector

- Focus on the food sector:
 - ASEAN region is an important source for food and a potential source to derive benefits from the AEC (Wells, 1980; Pettman, 2013).
 - High incidence of NTMs in the food sector (Chaponniere and Lautier, 2016; Sally, 2014; RSIS, 2013):
 - (i) these products attract a higher level of regulations for food safety or food security reasons (Duval and Feyler, 2016; Chaponniere and Lautier, 2016); and
 - (ii) diverse national standards and regulations (RSIS, 2013; Pettman, 2013; USAID, 2013; Norani, 2014).

ASEAN – Intra-regional Exports of Food (USD million)



- ✓ Higher growth in intra-regional exports of PPF.
- ✓ Higher share of intra-regional exports in PPF to global exports.

% of ASEAN exports to the ROW

Source: Calculated from UN Comtrade.

ASEAN – Public NTMs in the Food Sector

	NTM Chapters								
	Technical Measures			Non-Technical Measures					% of
	A	B	C	D	E	F	G-O		Total
Country	SPS	TBT	PSI	CTPM	QC	PC	Others	Total	Public NTMs
	Foodstuffs								
Malaysia	222	253	2		4	6		487	81.30
Singapore	119	169			1	13		302	65.23
Thailand	396	145	1		15	9	1	567	56.03
Philippines	100	91	12		20	16	6	245	41.32
Indonesia	106	54	21		4	2	3	190	38.08
Brunei	150	211	1		1	6		369	78.85
Cambodia	36	40			1	8		85	49.42
Lao PDR	27	20	3		1	11		62	29.67
Myanmar	38	13	2		3	4		60	43.80
Vietnam	112	25	1			2	6	146	54.28
Total	1,306	1,021	43		50	77	16	2,513	56.84
	Prepackaged Food (HS16 – HS22)								
Malaysia	145	162	1		2	5		315	52.59
Singapore	67	111			1	7		186	40.17
Thailand	238	88			3	6		335	33.10
Philippines	59	42	6		9	13	2	131	22.09
Indonesia	46	32	9		3	2	1	93	18.75
Brunei	77	117			1	5		200	42.74
Cambodia	34	27			1	6		68	39.53
Lao PDR	19	5	2			9		35	16.75
Myanmar	12	5	1		1	1		20	14.60
Vietnam	69	16	1			1	6	93	34.57
Total	766	605	20		21	55	9	1,476	33.39

- ✓ Highly regulated.
- ✓ SPS and TBTs are the core NTMs.

Derived from ERIA-UNCTAD database (2016).

Malaysia: Frequency Counts of SPS and TBT Measures for Food, by Sub-Chapters

A	SPS	No.	%
A14	Special Authorization requirement for SPS reasons	5	2.25
A19	Prohibitions/restrictions of imports for SPS reasons n.e.s.	1	0.45
A21	Tolerance limits for residues of or contamination by certain (non-microbiological) substances	1	0.45
A22	Restricted use of certain substances in foods and feeds and their contact materials	124	55.86
A31	Labelling requirements	67	30.18
A33	Packaging requirements	8	3.60
A41	Microbiological criteria of the final product	1	0.45
A42	Hygienic practices during production	3	1.35
A51	Cold/heat treatment	6	2.70
A63	Food and feed processing	1	0.45
A64	Storage and transport conditions	1	0.45
A82	Testing requirement	4	1.80
	Total SPS	222	100.00
B	TBT		
B6	Product identity requirement	46	18.18
B7	Product quality or performance requirement	146	57.71
B31	Labelling requirements	60	23.72
B33	Packaging requirements	1	0.40
	Total TBT	253	100.00

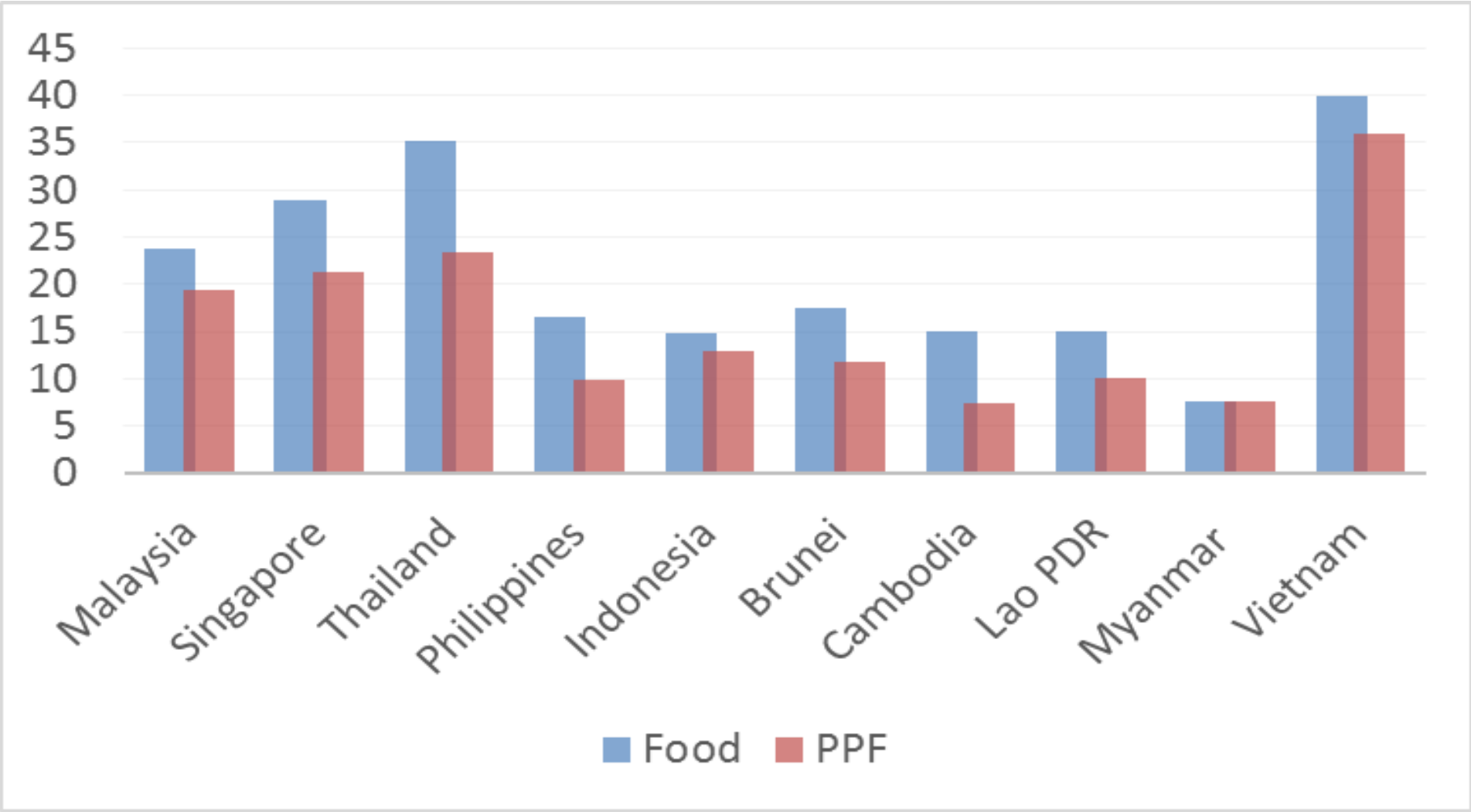
- For SPS measures:
 - restricted use of certain substances in foods and feed and their contact materials;
 - *labelling requirements.*
- For TBT measures:
 - product quality or performance requirement;
 - *labelling requirements.*

Malaysia: Coverage Ratio of TBT Measures for Food, by Sub-Chapters and Sub-Categories of Food

Food Sub-Categories	CR	Technical Barriers to Trade (TBT)			
	(%)	B6	B7	B31	B33
HS 02 Meat, edible	100.00	0.00	62.12	100.00	0.00
HS 03 Fish, crustaceans	98.94	65.61	90.48	98.94	0.00
HS 04 Dairy products	93.94	6.06	36.36	93.94	0.00
HS 07 Edible vegetables	100.00	100.00	91.04	100.00	0.00
HS 08 Edible fruits, nuts	96.97	0.00	1.52	96.97	0.00
HS 09 Coffee, tea, spices	100.00	23.08	82.05	100.00	0.00
HS 10 Cereals	15.38	0.00	3.85	15.38	0.00
HS 11 Milling products	100.00	0.00	25.93	100.00	0.00
HS 12 Oilseeds	56.25	0.00	2.08	56.25	0.00
HS 13 Lac, gums, resins	100.00	0.00	0.00	100.00	0.00
HS 15 Fats, animal and vegetable	91.67	0.00	81.25	91.67	0.00
HS 16 Meat and fish preparations	100.00	31.71	92.68	100.00	0.00
HS 17 Sugars	100.00	11.76	76.47	100.00	0.00
HS 18 Cocoa	81.82	54.55	63.64	81.82	0.00
HS 19 Cereal, flour, starch	100.00	21.05	47.37	94.74	0.00
HS 20 Vegetable and fruit preparations	100.00	26.92	94.23	98.08	0.00
HS 21 Miscellaneous edible preparations	100.00	18.75	81.25	100.00	0.00
HS 22 Beverages	95.65	56.52	43.48	86.96	65.22
Total	92.96	32.29	63.44	92.46	1.88

- ✓ coverage ratios differ depending on the product composition of bilateral trade.
- ✓ NTMs fall disproportionately on extra-regional trade.

ASEAN – Labelling Measures for TBT Reasons in the Food Sector (% of TBTs)



Approximately 27% of the TBTs in the food sector in ASEAN is labelling (B31).

Derived from ERIA-UNCTAD database (2016).

Impact of Labelling on Trade – Malaysian Perspective

Preliminary Findings

- Based on a standard gravity model using three dimensional panel data of import flows from ASEAN to Malaysia:
 - Overall, SPS and TBT measures are trade restrictive.
- Negative impact of technical measures on food trade, is expected, and well supported, based on the regional discussion on technical measures and food trade.
 - Additional checks for the robustness of baseline results:
 - (1) Multiple stacking of NTMs, wherein several measures affect a single product line types):
 - Limited evidence of restrictive trade for product lines subject to 5-6 NTMs.
 - (2) Sub-chapter analysis:
 - Labelling requirements for TBT reasons (B31) constrain trade flows relative to other TBT measures.

Harmonization – The Case of Nutrition Labelling

- AFBA (2014) identified nutrition labelling as the most significant barrier faced by the industry for food trade in ASEAN.
- Within ASEAN: Focus has largely been on A22.
 - *Between 2003 and 2009, 45 substances of food additives (22 preservatives, 17 colourings and 6 sweeteners) have been harmonized in ASEAN (ISLI SEA Region, 2014; cited from Chan, 2014).*
- Importance of harmonization of nutrition labelling requirements:
 - ✓ Reduce compliance costs (see also Baller, 2007) through common labelling schemes;
 - Eg: “*On average, it costs food companies up to \$6,000 to update the label for each product or SKU (stock keeping unit)*” (Bode, 2017).

- ✓ Ensure regulation is not misused for protectionist purpose;
 - *Malaysia: The recent 2010 labelling requirement (including the origin of the modified gene) of food and food ingredients obtained through modern bio-technology in Malaysia is considered restrictive by many exporters.*
- ✓ Existing information overload on nutrition for consumers for some food products; and
- ✓ Reduce the asymmetry in the provision of nutrition information (see also Weir, 2004).
 - *Malaysia: Labelling of food which may cause hypersensitivity or allergy - food containing gluten (including wheat, rye, barley and oat), nut and nut products (including soyabean), fish and fish products (including prawns and other seafood), milk and milk products (including lactose) and egg and egg products (inclusion of definition for "sugars", inclusion of Nutrient Reference Value (NRV) for "choline").*

Variances in Nutrition Labelling in ASEAN

- Different International Guidelines followed by countries when preparing national regulations (Norani, 2014; Pettman, 2013; USAID, 2013; Kasapila and Sharifudin, 2011). For food and nutrition labelling in ASEAN:
 - ✓ Malaysia, Brunei, Lao PDR, Vietnam and Cambodia have followed the Codex guidelines in preparing the regulations.
 - ✓ Thailand and the Philippines, to some extent, have adapted the United States nutrition labelling guidelines.
- Variances in regulatory framework (requirements and format) within ASEAN.
 - ✓ variances in mandatory and voluntary labelling requirements;
 - *Malaysia makes nutrition labelling mandatory for energy, protein, carbohydrate, fat and total sugars for foods that are commonly consumed (bread and milk, canned meat, fish, vegetable, fruit and fruit juices, salad dressing and mayonnaise) and for various types of beverages (AFBA, 2014; Kasapila and Sharifudin, 2011; see also Pettman, 2013).*
 - *For other ASEAN countries that follow the Codex guidelines, nutrition food labelling is voluntary, unless nutrition or health claims are made on food packaging or if the food is for a special purpose (diabetic and fortified foods).*

Elements of Nutrition Labelling

Element	Description	Codex
Core Nutrient List	Expressing four “core” nutrients (energy, protein, carbohydrate, fat) on the nutrition information panel (NIP), potentially extending to a maximum of 7 nutrients according to Codex.	Energy, protein, carbohydrate, fat, saturated fat, sodium/ salt, total sugars
NIP Format	Expressing nutrients as amount per 100ml/100g and per serving size.	Either per 100 g / per 100 ml OR Per serving
Reference Unit (NRVs)	Use of Codex nutrient reference values (NRVs) in nutrition labelling and nutrient content claims.	For example: Vitamin A: 800 µg Calcium: 1000mg Protein: 50g
Definition of Food Composition	Expression of carbohydrates, excluding dietary fibre in NIP and use of fibre content in energy calculations.	Sugars only
Declaration of Minerals & Vitamins	Use of Codex guideline regarding only declaring optional vitamin and minerals when the presence is at least 5 percent of the relevant NRV.	Vitamins to be declared if claims have been made AND if they are in amounts not less than 5% per 100 g / 100 ml / serving.
Tolerance Level & Compliance	Adopt a common declaration of tolerance limits for nutrients.	Not specified in Codex
Nutrition & Function Claims	Adopt a common list of classical nutrient function claims for ASEAN.	Not specified in Codex

The individual ASEAN markets have different requirements for the 7 elements.

- ✓ different minimum and maximum limits for vitamins and minerals;
- ✓ variances in tolerance levels; and
- ✓ variances in nutrition reference values (NRVs) used for packaging claims and nutrition information panel (NIP) formats.
 - Comparison of the differences in the percentage of NRVs. For example, for a product containing 10mg of vitamin C, given the different NRVs set by the ASEAN members, the declaration of the % of vitamin C in the NIP will be as follow:

	Codex	Malaysia	Singapore	Thailand	Philippines	Brunei
Vitamin C (% of NRV)	10.0%	16.7%	33.3%	16.7%	13.3%	33.3%

Source: FIA (2017).

Moving forward.....

- Identify the following from the firm-level survey:
 - Compliance cost (one-off and recurring) for nutrition labelling (SMEs vs. MNCs; across different markets).
 - Implications of nutrition labelling for pricing strategy and specialization (product and market loss).
 - Suitable regulatory rapprochement for 7 elements of nutrition labelling.

Some thoughts

- To move forward in facilitating trade through the harmonization of standards and regulations in the food sector:
 - ✓ First, prioritize the task of harmonization by considering specific NTMs (B31 – nutrition labelling); and
 - ✓ Second, identify specific sub-sectors of food that are highly tradable within ASEAN (prepackaged food and beverages).
- Why?
 - ✓ Important to recognize that complete harmonization may not be practical or politically feasible.

Thank you